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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY RM DEPUTY

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10 U.S. EQUAL EMPLOYMENT
11 OPPORTUNITY COMMISSION

12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 U.S. EQUAL EMPLOYMENT
15 OPPORTUNITY COMMISSION,

16 Plaintiff,

17 vs.

18 WALKER WOOD PRODUCTS,

19 Defendant.

Case No. **06CV 2335 BEN NLS**

COMPLAINT—TITLE VII

• **Retaliation**

JURY TRIAL DEMAND

20 **NATURE OF THE ACTION**

21 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil
22 Rights Act of 1991 to correct unlawful employment practices on the basis of sex and retaliation,
23 and to provide appropriate relief to Jose Hernandez, who was adversely affected by such
24 practices. As set forth in this Complaint, Plaintiff alleges that Defendant retaliated against
25 Mr. Hernandez when he opposed discriminatory practices and complained of the harassment of a
26 subordinate employee. He also refused to engage in discriminatory conduct against a
27 subordinate employee.

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1 **JURISDICTION AND VENUE**

2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
3 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of
4 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3)
5 (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

6 2. The employment practices alleged to be unlawful were and are now being
7 committed within the jurisdiction of the United States District Court for the Southern District of
8 California.

9 **PARTIES**

10 3. Plaintiff, the U.S Equal Employment Opportunity Commission (“EEOC” or
11 “Commission”), is the agency of the United States of America charged with the administration,
12 interpretation and enforcement of Title VII, and is expressly authorized to bring this action by
13 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

14 4. At all relevant times, Defendant, Walker Wood Products (the “Employer”), has
15 continuously been a California corporation doing business in the State of California and the
16 Cities of San Marcos and Escondido, and has continuously had at least 15 employees.

17 5. At all relevant times, Defendant Employer has continuously been an employer
18 engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of
19 Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

20 **STATEMENT OF CLAIMS**

21 6. More than thirty days prior to the institution of this lawsuit, Jose Hernandez filed
22 a charge with the Commission alleging violations of Title VII by Defendant Employer. All
23 conditions precedent to the institution of this lawsuit have been fulfilled.

24 7. On or about February 9, 2005, Defendant Employer has engaged in unlawful
25 employment practices at its San Marcos, California facility, in violation of Section 704 of
26 Title VII, 42 U.S.C. § 2000e-3, by retaliating against Jose Hernandez by terminating him from
27 his employment for having opposed retaliation against a subordinate employee and for having
28 complained of the harassment of a subordinate employee.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Jose Hernandez of equal employment opportunities and otherwise adversely affect his status as an employee, because of his participation in the protected activity of opposing sex discriminatory and retaliatory practices at Defendant Employer.

9. The unlawful employment practices complained of in paragraph 7 above were and are intentional.

10. The unlawful employment practices complained of in paragraph 7 above were and are done with malice or with reckless indifference to the federally protected rights of Jose Hernandez.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in retaliation.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Jose Hernandez, by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement and/or restoration of the compensation, seniority and benefits he would have enjoyed had he not been terminated.

D. Order Defendant Employer to make whole Jose Hernandez, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7 above, in amounts to be determined at trial.

E. Order Defendant Employer to make whole Jose Hernandez by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7 above, in amounts to be determined at trial.

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1 F. Order Defendant Employer to pay Jose Hernandez punitive damages for its
2 malicious and reckless conduct described above, in amounts to be determined at trial.

3 G. Grant such further relief as the Court deems necessary and proper in the public
4 interest.

5 H. Award the Commission its costs of this action.


6 JURY TRIAL DEMAND

7 The Commission requests a jury trial on all questions of fact raised by its complaint.

8 Ronald S. Cooper
9 General Counsel

10 James L. Lee
11 Deputy General Counsel

12 Gwendolyn Young Reams
13 Associate General Counsel

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15 Arina Y. Park
16 Regional Attorney
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JS44

(Rev. 07/89)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

CIVIL COVER SHEET

I (a) PLAINTIFFS

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

(b) COUNTY OF RESIDENCE OF FIRST LISTED
PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Anna Y. Park (213) 894-1076
Peter F. Laura
U.S.E.E.O.C.
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012

DEFENDANTS

WALKER WOOD PRODUCTS

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

San Diego Co.

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

'06CV 2335 BEN NLS

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☒ U.S. Government Plaintiff ☐ Federal Question
(U.S. Government Not a Party)
- ☐ U.S. Government Defendant ☐ Diversity (Indicate Citizenship of Parties in
Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX
FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PT | DEF | | PT | DEF |
|--|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business
in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business
in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign
Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE
JURISDICTIONAL STATUTES UNLESS DIVERSITY).

An action to correct unlawful employment
practices in violation of Section 704 of Title VII, 42 U.S.C. Section 2000e-3

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury- Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:
JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

DATE 10/18/06

SIGNATURE OF ATTORNEY OF RECORD

Rocky Number

ORIGINAL